



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 11, 1997

Ms. Sharon Alexander
Staff Attorney
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR97-2718

Dear Ms. Alexander:

You ask this office to reconsider our ruling in Open Records Letter No. 97-2209 (1997). Your request for reconsideration was assigned ID# 111648. Other requests for the same or similar information were assigned ID# 111824.¹

The Texas Department of Health (the "department") received several requests for information which you contend relate to the requests for proposals ("RFPs") for various Medicaid service contracts. In Open Records Letter No. 97-2209 (1997), this office concluded that you could withhold the requested information under section 552.104 of the Government Code until such time that the department executed a final contract. You apparently interpret this conclusion to mean that the department must release the requested information after each contract has been executed between the department and an individual contractor.

In your original request for a ruling, you asserted that "[t]he department issued five Requests for Proposals (RFPs), which will result in five separate service contracts with organizations to assist in certain functions performed for the Texas Medicaid Program." The department also argued that the five RFPs, which are at issue in this request, should be considered as "one competitive bid process," because "the services sought to be procured are highly interrelated, with potential overlap and potential for one contractor to be awarded more than one of the service contracts." Furthermore, you contended that the competitive bidding procedures had not yet been completed for any of the five Medicaid service contracts, so none of the five contracts has yet been awarded."

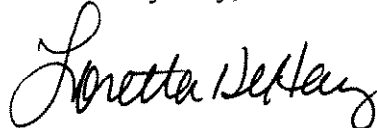
¹We have combined the related files, because the requestors seek information which you contend relates to the RFPs for the Texas Medicaid Claims administrator, an Enrollment Broker, an external Quality Monitor, a State of Texas Access Reform Health Initiative (STAR) network Administrator, and a Managed Care Support Contractor.

In Open Records Letter No. 97-2209 (1997), we agreed with your arguments and stated that because "the department has not yet awarded the service contracts with regard to this matter, we conclude that pursuant to section 552.104 you may withhold the submitted information, until such time as a final contract is awarded." We agree that the five RFPs, which are at issue in these requests, should be considered as one competitive bid process for purposes of section 552.104. The department may, therefore, withhold this information under section 552.104 in response to the requests for information at issue in this ruling. Once the competitive bidding process is completed and the final contract in the series has been awarded, you may not withhold the requested information under section 552.104. Thus, after the final contract in the series has been awarded, the department may not invoke section 552.104 in response to future requests for this information.

We understand that the department does not object to releasing each individual contract, absent any attached exhibits, once each contract is executed. You state that "the department's position is that, as each of the five inter-related Medicaid service contract documents is finally executed each of those contract documents, absent the Exhibits, is a public document."

We, therefore, affirm Open Records Letter No. 97-2209 (1997). If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID#s 111648, 111824

Enclosures: Open Records Letter Nos. 97-0856; 97-1564; 97-1675 (1997)
Submitted documents

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